

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FRANCIS JOSEPH SANTAROSE

Plaintiff,

v.

AURORA BANK FSB,

Defendant.

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CIVIL ACTION NO. H-10-720

ORDER

Pending before the Court is Defendant Aurora Bank, FSB's ("Aurora's") Rule 12(b)(1) Motion to Dismiss [Doc. # 11] ("Motion to Dismiss") through which Aurora seeks dismissal of this case for lack of subject-matter jurisdiction. Plaintiff Francis Santarose filed a Response [Doc. # 16].


Santarose pled in his Complaint [Doc. # 1] that the Court has diversity jurisdiction over this case because Santarose is a resident of the State of Texas and Aurora is a resident of the State of Delaware. Aurora argues that because Santarose alleged residency rather than citizenship of the parties, Santarose has failed to meet his burden to establish diversity jurisdiction. *See Strain v. Harrelson Rubber Co.*, 742 F.2d 888, 889 (5th Cir. 1984).

Santarose proceeds *pro se* in this matter. "A document filed *pro se* is 'to be liberally construed,'" and "'a *pro se* complaint, however inartfully pleaded, must be

held to less stringent standards than formal pleadings drafted by lawyers’.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (citing *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (internal quotation marks omitted); FED. RULE CIV. PROC. 8(f) (“All pleadings shall be so construed as to do substantial justice”)). The Court notes that while Santarose did not allege that Aurora is a citizen of Delaware in his Complaint, he did make this allegation in his Response to Aurora’s Motion to Dismiss. *See* Response, at 1-2. Aurora has not denied that it is a citizen of Delaware. It is therefore

ORDERED that Aurora must file by **May 13, 2010**, an affidavit or declaration made under penalty of perjury, see 28 U.S.C. § 1746, made by a person from Aurora with personal knowledge stating the state where Aurora’s home office is located, where its principal places of business are located, and whether Aurora takes the position it is a “citizen” of the State of Texas.

SIGNED at Houston, Texas, this **10th** day of **May, 2010**.



Nancy F. Atlas
United States District Judge